

[KIRKLAND & ELLIS LLP]

2009

Pro Bono Achievements

Using our legal skills to improve lives,
communities, and our profession



[Thomas Gottschalk]

“Kirkland attorneys make a meaningful, positive difference in the lives of many individuals and families through their volunteer pro bono legal representations.”

Message from the
Pro Bono
Committee Chair

In 2009, Kirkland lawyers undertook more than 900 pro bono representations and devoted more than 115,000 hours of free legal service to pro bono clients, primarily individuals and nonprofit groups who could not otherwise afford counsel.

The matters in this inaugural *Pro Bono Annual Review* are just some of the outstanding results Kirkland lawyers and staff achieved for pro bono clients in 2009. These stories illustrate how meaningful this work can be, especially when personal security or family welfare is at stake.

The Pro Bono Management Committee would like to thank all of the lawyers and staff members who take on pro bono representations for their personal commitment of time and energy, as well as their support of the Firm's pro bono program.

Going forward, we are committed to continuing the positive momentum in our pro bono program at Kirkland by expanding the range of pro bono opportunities for our lawyers and encouraging even broader participation in the program, with the purpose of making a difference for our clients and ultimately, our communities. For all of us, pro bono means fulfilling the ethical expectation of our profession to assure that access to adequate legal representation is available to all who need it, not just those who can afford it.



Thomas
Gottschalk,
Chair

Pro Bono Management Committee Members



James
Basile



Stephanie
Biggs



Robert
Boldt



Paul
Bondor



Marc
Carmel



Mark
Cramer



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Dee



Michael
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Jennifer
Levy



Marjorie
Lindblom



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Nicklin



William
Pratt



Stephen
Ritchie



John
Schoenfeld



Frederick
Tanne

Mission Statement

Kirkland is committed to providing legal services without charge to those who cannot afford counsel with the goals of improving lives, bettering communities, and deepening our own professional experience.

Message from the Firmwide Management Committee

The Firmwide Management Committee actively supports the mission of the Pro Bono Management Committee. Pro bono work is a top priority within Kirkland, and we encourage lawyers at all levels to participate in such work. In 2009, the Firm achieved an all-time high in the number of its lawyers doing pro bono work. We are proud of this accomplishment and anticipate even greater involvement in the future.

“I have succeeded in my profession because many people outside of my family helped me, and I believe it is my obligation to help others as well.”

— *Chong Park,*
Kirkland Washington, D.C.
Litigation Partner]

Immigration
&
Asylum



LGBT Asylum Project

Kirkland's LGBT Asylum Project was born out of a request from LGBT students at Columbia Law School who were interested in attending pro bono training with Kirkland attorneys and working on LGBT-related cases under a Kirkland recruiting outreach program. While the Firm had previously handled — and won — a number of asylum cases, the establishment of the LGBT Asylum Project allowed the Firm to take on more LGBT asylum cases in more offices and, in the process, became a model for how partners could become involved in leading focused pro bono projects.

Attorney and staff time and expenses dedicated to the LGBT Asylum Project totaled approximately 1,700 hours and \$750,000 in 2009. Among the cases handled in the past year were those involving gay men and lesbians from Ecuador, Mexico, Grenada, Ghana, Colombia and Jamaica.

Here are just two of the compelling stories of the LGBT Asylum Project's clients:

In July 2009, a Kirkland team won asylum for Ms. A., a 22-year-old lesbian from Ghana. In her native Ghana, where homosexuality remains illegal, Ms. A. was expelled from her university in 2008 when it was discovered that she was a lesbian. Ms. A. was subsequently taken to jail in handcuffs and sexually assaulted. After her family provided bribes for her release, Ms. A. was sent to a "prayer camp" where she was chained to a block and starved over a period of weeks in order to weaken her "internal demons." Ms. A.'s story was difficult to document since she fled the country with little paperwork and no official record

of her prison or "prayer camp" experiences. Kirkland attorneys, however, were able to obtain the letter expelling Ms. A. from university on the explicit grounds of her homosexuality. They were also able to convince her brother, despite his apparent shame at having a lesbian sister, to give a notarized statement corroborating her time in jail, sexual assault at the hands of police officers and stay at the "prayer camp."

Mr. E., a gay man from Mexico, had been subject to abusive treatment at home at the hands of his father and at school. At the age of 13, he witnessed the stabbing of a friend — also rumored to be gay — and decided that it was unsafe for him to remain in Mexico. After a dangerous border crossing, during which he was sexually harassed and assaulted by his smugglers, Mr. E. finally arrived in New York, where he stayed with his mother for two years. When she discovered that her son was gay, she too became abusive, at which point the teenaged Mr. E. was abandoned on the streets. The Kirkland pro bono team secured regular psychiatric treatment for Mr. E. for post-traumatic stress, which, in turn, has strengthened his asylum application.

For their work in these cases and others, Kirkland and the individual lawyers involved in the LGBT Asylum Project were honored by Immigration Equality with a 2010 Safe Haven Award. In announcing the award, Immigration Equality's executive director pointed to the amount and significance of the casework handled by Kirkland, the Firmwide scope of the program and other resources Kirkland has brought to the support of the program, such as use of conference space for city-wide trainings for the organization.



Immigration Intervention Project for Domestic Violence Victims

In 2004, Kirkland's New York office formalized its participation in what has become the New York Immigration Intervention Project for Domestic Violence Victims, in which Kirkland attorneys represent battered women and their children in filing petitions to legalize their residency in the United States under the Violence Against Women Act (VAWA) and related statutes. VAWA permits immigrant spouses of U.S. citizens or green card holders who have been subjected to severe abuse at the hands of their spouses to petition for lawful permanent resident status without the sponsorship or knowledge of the abusive spouse. Kirkland also represents battered women and their children in seeking other immigration remedies that apply to domestic violence victims, such as Battered Spouse Waivers, U-Visa immigrant status and asylum on the basis of gender-based persecution.

Since 2004, more than 150 Kirkland attorneys have represented more than 100 clients as part of the project. To date, Kirkland has met with success in all of the petitions it has filed. The project is enabled in large part by the Firm's strong relationship with Sanctuary for Families, the largest nonprofit organization in New York dedicated exclusively to serving domestic violence victims and their children. In addition to referring clients to the Firm, Sanctuary offers training to Kirkland attorneys and serves as co-counsel on most matters. To date, Sanctuary has honored three Kirkland attorneys for their distinguished work in representing victims of domestic violence.

“Working on VAWA pro bono cases has been very rewarding because I have been able to help improve the lives of these women and to help jump-start their future in this country.”

— Kester Spindler, Kirkland New York Corporate Partner & 2009 Recipient of Sanctuary for Families Award

Asylum Victory

On May 14, 2009, a Chicago immigration court granted asylum to Kirkland client Mr. G., an ethnic Oromo and citizen of Ethiopia. Mr. G. suffered abuse at the hands of Ethiopian government forces on the false suspicion that he was a member of the Oromo Liberation Front, a group considered to be a

terrorist organization. The government waived its appeal, which solidified Mr. G.'s granting of asylum after a three-year struggle. The Kirkland team was assisted in this effort by the National Immigrant Justice Center.

“Before getting asylum, I didn't know if I would be safe or if I would be sent back to my country and killed. But the lawyers helped me. I am now working as a cab driver here in Chicago and getting ready to apply for a green card. None of this would be possible without Kirkland.”

— Mr. G.



The Kirkland Immigration Network

Founded in 2006, the Kirkland Immigration Network (KIN) helps connect attorneys and staff with opportunities to serve immigration clients in asylum claims, U-Visa and VAWA petitions, appellate advocacy, know-your-rights presentations, and the representations of unaccompanied minors to obtain special immigrant juvenile status. KIN attorneys also represent

immigration organizations, such as the National Immigrant Justice Center, by filing *amicus* briefs and administrative petitions for rulemaking. Kirkland plans to make KIN, which is currently based in the Chicago office, a Firmwide organization to facilitate knowledge-sharing among attorneys and staff handling pro bono matters.

“KIN provides a forum for sharing insights and war-stories with other Kirkland attorneys interested in these [asylum] issues, and it has made me a more effective advocate for my immigration clients. Being trusted with such a great responsibility inspires me to do everything I can to achieve the best outcome for my client.”

— *Maria Maras, Kirkland Chicago Intellectual Property Associate*



“Having a celebratory dinner with our client’s family was one of the best experiences you can have as a lawyer.”

— *R.C. Harlan,*
Kirkland Los Angeles
Litigation Associate]

Criminal Defense



Victory in Gissendanner Death Penalty Appeal

Working with the Montgomery-based Equal Justice Initiative and the New York University School of Law, Kirkland lawyers recently obtained a new trial for Alabama Death Row inmate Emmanuel Gissendanner. On March 31, 2010, the judge who presided over the original trial overturned the verdict and ordered a new trial for the 34-year-old Mr. Gissendanner, an African-American who has been on Death Row since 2003. The grounds upon which the new trial was ordered were ineffectiveness of counsel as well as the state's failure to turn over key exculpatory evidence.

Mr. Gissendanner was accused of assaulting and killing a 77-year-old woman, Margaret Snellgrove, in the carport of her home, putting her body in the trunk of one of her cars, and then hiding her body with branches he cut down with his knife. The State's basic theory was that the defendant, who had done a few hours of yard work at Ms. Snellgrove's home many months earlier, decided one morning in June 2001 to steal her car, and killed her in the process. While there were no witnesses, no confession, no murder weapon and no physical evidence from the crime scene that linked to Mr. Gissendanner, he was convicted based primarily on the uncontested fact that after the victim's disappearance, he drove her car around town and cashed a check from her account. For his part, Mr. Gissendanner claimed that he had been at his parents' home miles away at the time of the incident. He also claimed that he had received the car and check from a man called "Buster" as payment for drugs and did not know they belonged to the victim or that she had met with foul play. After the jury found the defendant guilty of murder, and recommended a death sentence by a 10-2 vote, the trial court imposed the death penalty on Mr. Gissendanner. The Alabama Court of Criminal Appeals upheld the sentence 5-0. A team of Los Angeles-based Kirkland lawyers became involved in the case in 2007, a few months before Mr. Gissendanner's habeas petition was due. Kirkland filed a petition claiming that Mr. Gissendanner had received constitutionally inadequate representation during both the guilt and innocence phases of his trial, and furthermore that the State had withheld exculpatory

evidence. After discovery, the Kirkland team was able to introduce the evidence supporting its habeas petition during a hearing held in August 2009 before the same trial judge who had sentenced Mr. Gissendanner years earlier. More than 100 exhibits and 15 witnesses provided evidence that decimated the State's theory of guilt under which Mr. Gissendanner had been convicted. For example, three alibi witnesses (who would have been easily available to trial counsel) verified Mr. Gissendanner's account of his whereabouts that morning; furthermore, experts in forensics and pathology were able to show that a basic investigation by the defense would have shown that there was no pre-mortem head or neck injuries, that no body had been transported in the trunk of the victim's car, and that Mr. Gissendanner's knife had not been used to cut down the branches covering her body. Moreover, forensics reports created by the State and never investigated by trial counsel also showed that of the dozens of identifiable fingerprints lifted from the crime scene and the victim's personal possessions, none belonged to Mr. Gissendanner. These were just some of the facts presented to the trial judge during the hearing, which also provided evidence that the trial counsel was inadequate in the sentencing phase and that the State had wrongly withheld details of a handwriting report from the defense.

In the original trial, no defense evidence was presented and only the defendant and two other defense witnesses were called to the stand. The original defense lawyers in the case, when put on the stand, reluctantly affirmed their time records (a total of 16.7 hours in preparation for trial). Asked why they had not sought to put fingerprint, handwriting or forensic experts on the stand, prior counsel replied that they considered such expertise as "voodoo science" and "a sham."

The judge ultimately concluded that the state had withheld favorable evidence and that "but for defense counsel's unprofessional errors" the result of the proceeding would have been different and thus ordered a new trial.



Soffar Death Penalty Appeal

On June 14, 1980, four people were shot execution-style during a robbery at a Houston bowling alley. Three of the victims died at the scene, and one survived and went on to give police a detailed description of the robber and the crime. Three weeks passed with no arrest.

On August 6, Mr. Soffar, a petty criminal who suffered from brain damage and had a reputation for making up stories, was arrested riding a stolen motorcycle. Mr. Soffar claimed to have information about the bowling alley murders. After three grueling days of interrogation, during which he asked how he could get a lawyer and was told that he was “on his own,” Mr. Soffar claimed to have shot two of the victims. Although Mr. Soffar did not match the description given of the robber, and his statement did not match the facts of the crime in any respect, a

few months later, Mr. Soffar was tried, convicted and sentenced to death for the murder of one of the victims. In 2004, his conviction was overturned by the Fifth Circuit.

Although Mr. Soffar is clearly innocent, following a constitutionally flawed trial in 2006 at which key evidence was kept from the jury, Mr. Soffar was, once again, convicted and sentenced to death. Kirkland attorneys have stepped in to handle Mr. Soffar’s case and so far have located three new witnesses who can place an alternative perpetrator, matching the original description of the robber, at the scene of the crime in the weeks and days leading up to the murders. Kirkland attorneys are currently awaiting the trial court’s ruling on whether to hold an evidentiary hearing at which they will present the new evidence.

DNA and the Innocence Protection Act

Kirkland, in conjunction with the Center on Wrongful Convictions at Northwestern University, represented Steve Fasano, who was convicted of bank robbery in 2006. Certain physical evidence worn by the thief during the crime (parts of the robber’s disguise discarded after the heist) was never tested for DNA prior to trial. After Mr. Fasano’s conviction was upheld, Kirkland agreed to represent him and petitioned for DNA testing under the federal Innocence Protection Act (IPA) — which was enacted in 2004, but had at the time never been successfully invoked. The Southern District of Mississippi rejected Mr. Fasano’s testing petition, reading the IPA narrowly.

In July 2009, at Kirkland’s urging, the Fifth Circuit reversed the district court’s decision and ordered DNA testing of each piece of the physical evidence. The opinion is a landmark decision. It is the first published opinion granting a request for DNA testing under the IPA, it reads the statute expansively, and it rejects the government’s argument that the otherwise strong case against Mr. Fasano was a sufficient basis to deny post-conviction DNA testing.



Kirkland Succeeds in Wrongful Conviction Case

Kirkland achieved a pro bono victory on behalf of a client who had been wrongly convicted of assault with a deadly weapon in fall 2009. Kirkland's client was a Chinese immigrant who spoke limited English and whose conviction resulted largely from his original trial counsel's failure to provide an interpreter and its incompetence. The Firm's client was arrested and charged following an incident outside of the Washington, D.C. restaurant where he worked.

Kirkland became involved after the client's conviction was vacated on the basis of ineffective assistance of counsel. The team obtained all of the relevant documents, records and grand jury testimony and prepared for retrial. Ultimately, following discussions with the U.S. Attorney's Office, Kirkland convinced the government not to seek retrial and to dismiss all charges. Following the dismissal, Kirkland filed and won a motion to seal the client's criminal records based on a showing of factual innocence.

California Habeas Project

The California Habeas Project is a collaboration that enhances justice for domestic violence survivors incarcerated for crimes related to their experiences of being abused. Through this project, Kirkland represents Ms. R., who was convicted of second-degree murder of her abusive partner in 1994 and has served 16 years in prison.

Despite years of suffering at the hands of her partner and others, Ms. R.'s trial attorneys did not present any evidence about the

effects on Ms. R. of long-term abusive relationships. California Penal Code Section 1473.5 provides *habeas* relief for battered women, such as Ms. R., who were incarcerated for killing their abusive partners before 1996, and who were prejudiced at trial by a lack of expert testimony on intimate partner battering and its effects. Ms. R.'s Kirkland attorneys have worked with an expert on "intimate partner battering" to obtain the factual support they need to file a *habeas* petition for Ms. R. under Section 1473.5.

Seventh Circuit Appeal Victory

On August 3, 2009, the U.S. Court of Appeals for the Seventh Circuit issued a unanimous opinion in favor of Kirkland client Melky Terry reversing the order that held that Mr. Terry's petition for a writ of *habeas corpus* was untimely.

The case began in 1992, when Mr. Terry filed a petition for a writ of *habeas corpus* in federal district court alleging that he was held in state custody in violation of his constitutional rights. The petition was dismissed under then-controlling law, because Mr. Terry had not first sought relief in state court. Mr. Terry then litigated his claims in state court until late 2005, when his final state appeal was denied. He then returned to federal court and filed a renewed *habeas* petition.

The district court denied this petition as "untimely" under the Antiterrorism Enforcement and Death Penalty Act of 1996, which states that a *habeas* petition can be filed no more than one year after a criminal conviction becomes final, not counting the time during which the petitioner seeks relief in state court. Mr. Terry's, they said, missed this deadline by two months. The Kirkland team discovered the district court's use of the incorrect date, and the Seventh Circuit ultimately ruled that Mr. Terry's petition was timely.



[“The commitment to remain involved and see that the legal victory becomes a reality for Maryland’s poor demonstrates both the quality of lawyering and the heart of our new Kirkland friends.”

— *John Nethercut,*
Executive Director,
Public Justice Center]

Public
Benefits



Kirkland Assists Thousands of Maryland Residents

In December 2009, a Baltimore circuit court judge ruled that the state of Maryland has failed to deliver food stamps, cash assistance and medical benefits to thousands of residents in a timely manner. Kirkland, along with co-counsel from the National Center for Law and Economic Justice, the Public Justice Center and the Homeless Persons Representation Project, represented low-income Maryland residents in the case.

The suit alleged that the defendant, Maryland Governor's Cabinet appointee Secretary Brenda Donald, has engaged in a pattern or practice of violating federal and state requirements for the timely processing of benefit applications. The suit also alleged that the defendant's unlawful delays in the act of processing applications and providing benefits caused needy individuals and families in Maryland to face hunger, homelessness and serious health risks.

The court fast-tracked the case, and after a full trial, found in favor of Kirkland's clients. The court ordered the defendant to develop a corrective action plan to achieve compliance and ordered that the defendant indeed achieve full compliance with timely processing requirements within 12 months of the judgment. There is no sunset on the court's jurisdiction, and the defendant did not appeal.

Kirkland has received several awards for its work on this case: the Outstanding Volunteer Law Firm of the Year Award from the Homeless Persons Representation Project, the Maryland Pro Bono Service Award from the Pro Bono Resource Center of Maryland and Distinguished Honoree from the National Center for Law & Economic Justice.

“Kirkland's commitment to pro bono work is real. As a newly minted lateral hire, I was impressed by the Firm's willingness to take on impact litigation and grateful for having been given the opportunity to co-lead this major civil rights case from which thousands of needy families in Maryland stand to benefit.”

— *Philippa Scarlett, Kirkland Washington, D.C. Litigation Partner*



Social Security Overpayment Project

Kirkland has piloted a new Social Security Overpayment pro bono program in collaboration with the Chicago Bar Foundation and four Chicago-based legal aid organizations to assist low-income disabled individuals who receive “overpayments” from the Social Security Administration (SSA). Overpayments can occur in error when a beneficiary is attempting to return to work. Often, the SSA will require the recipient to pay back any overpaid benefits and will reduce their current benefits until the money is paid back. A reduction in benefits can be devastating to these disabled individuals, who survive on extremely limited income, primarily the Social Security payments.

“Through the [Social Security Overpayment] Project, Kirkland’s attorneys are providing much-needed legal assistance to elderly and disabled individuals so that these individuals continue to receive the Social Security benefits that they need to remain stable and independent.”

— *Bob Glaves, Executive Director, Chicago Bar Foundation*

Fighting for the Children of Tennessee

Since 2005, Kirkland has partnered with the Tennessee Justice Center (TJC) to fight cuts to TennCare, Tennessee’s Medicaid expansion program, and force the state to live up to its court-ordered obligation to provide health care to the nearly 700,000 children enrolled in the program. This ongoing case follows an earlier case in which Kirkland and the TJC challenged the state’s procedures for terminating TennCare coverage and won concessions that helped 15,000 low-income Tennesseans retain their benefits.

In January of 2007, the court-appointed monitors issued a report finding that the state was still not in compliance with its

The Social Security Overpayment Project is run in conjunction with AIDS Legal Council of Chicago, Health & Disability Advocates, Legal Assistance Foundation of Metropolitan Chicago and Equip for Equality. The Chicago Bar Foundation, the charitable arm of the Chicago Bar Association, has facilitated the collaboration. Nearly 100 Kirkland transactional lawyers to date have been trained to assist these individuals on these important overpayment matters and their resolution.

federally mandated early periodic screening, diagnosis and treatment requirements for the over half a million children enrolled in the TennCare program. A hearing date of May 1, 2008, was set (and then extended) to further determine the state’s compliance. In June 2009, the court denied the state’s motion to vacate the consent decree, which is now on appeal to the Sixth Circuit. Argument took place in April 2010. Upon favorable resolution of the appeal, the case is expected to go to trial sometime in 2011.

In recognition of the Firm’s work on this case, the TJC gave Kirkland its Pro Bono Law Firm of the Year Award in 2010.



Attorney Profile: Jennifer Selendy

New York litigation partner Jennifer Selendy led the team that produced one of Kirkland's outstanding 2009 pro bono victories, the much-publicized Maryland food stamps case (see page 13). Recently, we took time out of Jennifer's busy day to talk about her pro bono work at Kirkland.

How did you come to be involved in pro bono work?

"The intersection of poverty, children and women's rights issues interested me from the time I graduated from Harvard Law School in 1995. As an associate at Cravath, I considered leaving to become a public interest lawyer. Gradually, though, I found myself becoming consumed intellectually in private practice, so that when I did leave Cravath, it was to join Kirkland as a trial lawyer. By then, I'd also come to realize that I could play a meaningful role by working with organizations that I cared about, primarily the National Center for Law and Economic Justice (NCLEJ), where I have a long history and where I've just been elected chair."

Do you remember what your first important pro bono case was at Kirkland?

"As a fourth or fifth year associate, I became involved in a matter on behalf of the famous Hungarian-born industrial designer Eva Zeisel, who was 96 years-old at the time. The case pitted Eva against The Orange Chicken, a Tribeca art gallery, that claimed exclusive rights to many of her works. We eventually went to arbitration — a long arbitration, witnesses upon witnesses. When it was Eva's time to be deposed, the lawyer on the other side asked her if she'd ever given a deposition before, and, in a stage whisper, she turned to a colleague of mine and said, 'Is he talking about the Gulag?' Well, Eva had actually been in prison in the Soviet Union in the 1930s and had been held in solitary confinement for 18 months. Her experience is what Arthur Koestler's book *Darkness at Noon* is fashioned after. Be

that as it may, at the end of the day, we got the result we wanted: Eva was able to terminate the contract. And I wound up with my first really substantive trial experience, 18 or 19 directs and crosses in the course of a 30-day arbitration — and all on behalf of a lady who is a legend!"

How did you become involved with the Maryland case?

"One of the lawyers at the NCLEJ called me and said, 'We've just sued the state of Maryland. We're hoping that it will settle, but if it doesn't, it's probably going to be fast-tracked and be a very significant litigation.'"

Why was the case so significant?

"Maryland is in the bottom quartile of the states in administering their public benefits program. The state was not getting food stamps and other benefits to the people who needed it. You had a situation where food pantries were in crisis with signs on their doors saying, 'Will reopen in 90 days.' Public hospitals were in crisis. Homeless shelters were in crisis. Children, in particular, weren't receiving their benefits in a timely manner."

What was your biggest challenge in the case?

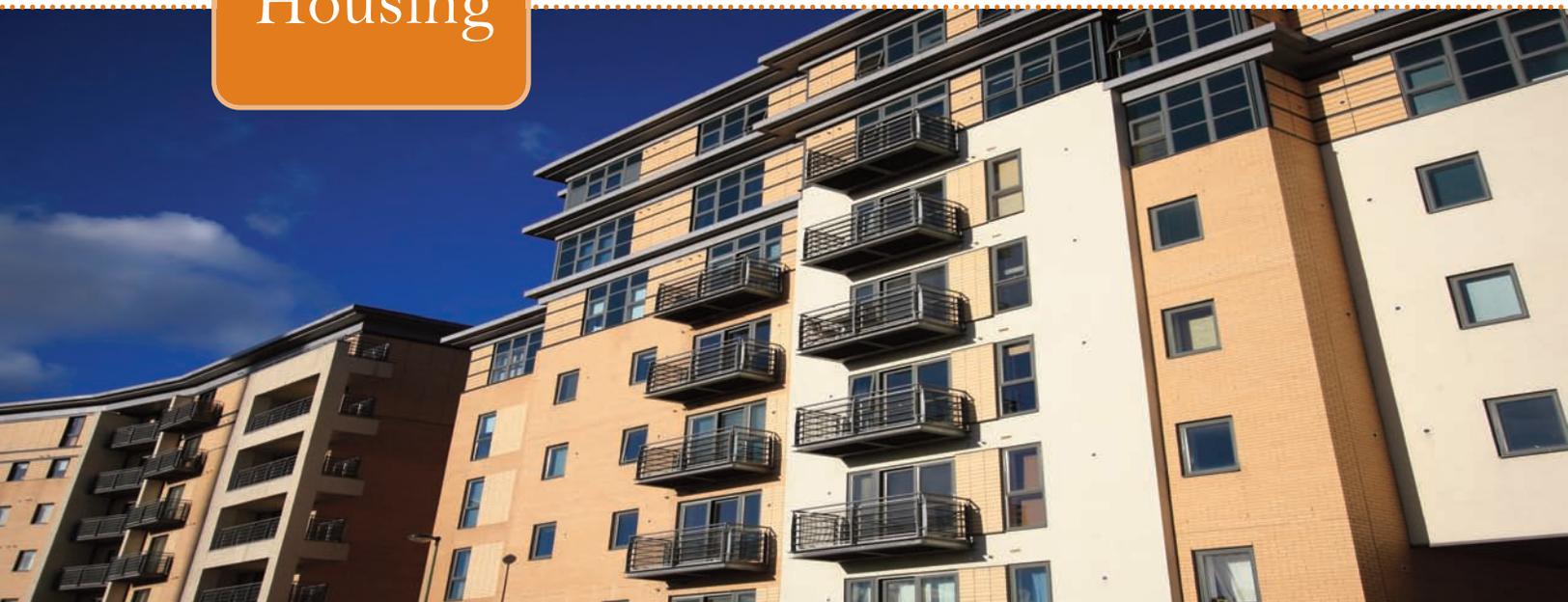
"Brenda Donald, the secretary of the Maryland Department of Human Services, has a very impressive resume and a long track-record of public service, and is extremely charismatic. She would be a challenge. It was my primary assignment to take her deposition and to handle her at trial on direct and on cross. That meant getting to know her. I came to feel that she would put the state's best spin on it, but that she was fundamentally honest. On the stand, she admitted that up until the day we deposed her, she hadn't even known that her agency was already under orders from the federal government because of their delinquency. No one had bothered to tell her."



“I just wanted to reiterate how incredibly grateful we are to you. The positive result led to a win-win situation that could not have been resolved without your involvement.”

— *Martha Bergmark,*
Executive Director,
Mississippi Center for Justice]

Housing



Assisting Victims of Hurricane Katrina

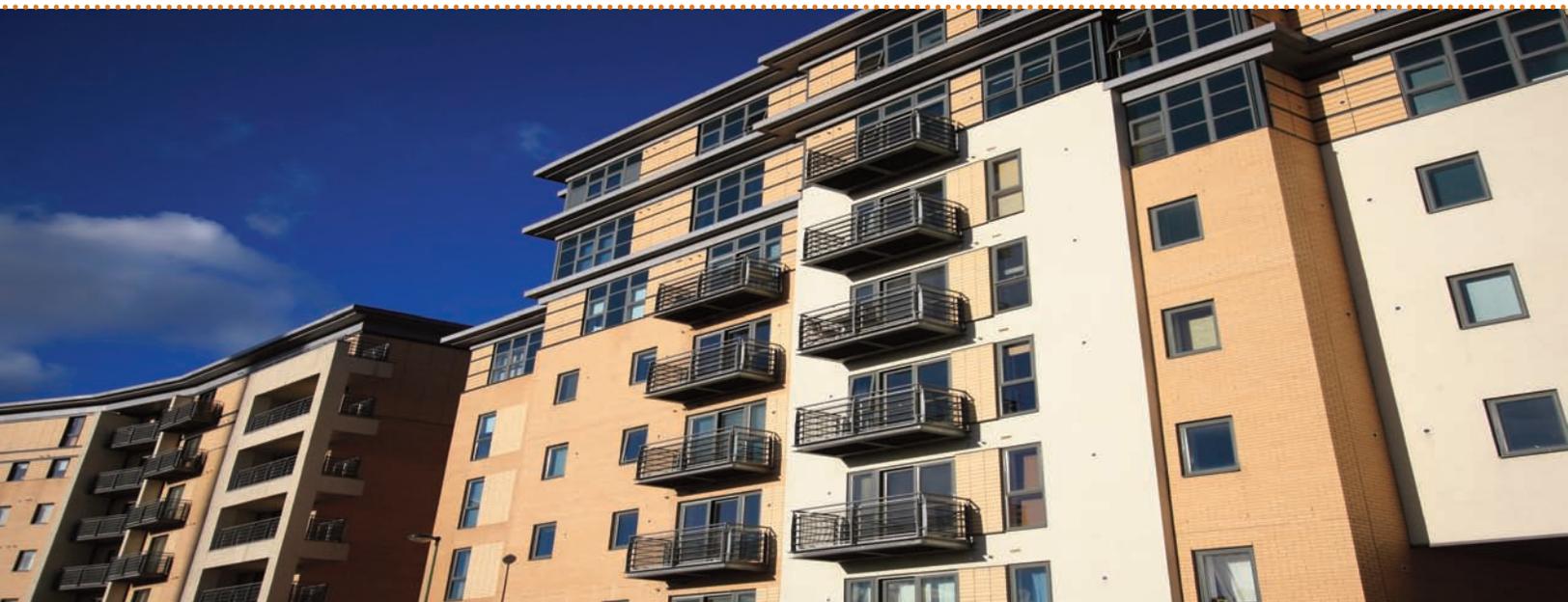
In February 2009, Kirkland, working with co-counsel from the Mississippi Center for Justice (MCJ), brought suit against the city of Waveland, Mississippi, on behalf of eight individuals who lost their homes to Hurricane Katrina. The eight had each received modular homes — known locally as “Mississippi Cottages” — from the Mississippi Emergency Management Agency (MEMA), the state counterpart to FEMA. MEMA created a program through which residents could purchase their cottages at a small price and remain in them permanently. However, placement of the cottages first had to be approved by their local government.

The city of Waveland refused to issue new building permits to cottage residents, claiming that the cottages did not qualify as modular housing. After suit was filed, the city gave up on that argument but passed an ordinance imposing other restrictions. The Kirkland/MCJ lawsuit challenged the city’s actions as arbitrary, capricious and violative of Mississippi statutory law, as well as the due process and equal protection guarantees of the Mississippi and federal constitutions. Following hearings before a local judge, city officials agreed to settle the case in favor of the cottage residents.

Preventing a Family’s Eviction

A Kirkland attorney represented a family residing in public housing before the New York City Housing Authority’s (NYCHA) Review Board concerning the family’s eviction on grounds of “non-desirability.” NYCHA’s attempt to evict the family was based on the client’s teenage son’s recent arrest for possession of a trace amount of marijuana. The family, including a widowed and disabled mother and her six children, was facing relocation to possibly separate shelters.

At the hearing, the Kirkland attorney cross-examined the arresting officer and got him to admit he did not follow standard testing procedures. The review board ruled that there was insufficient evidence to support a finding of non-desirability, and the family continues to reside in public housing.



“Our partnerships with legal service organizations have provided us with excellent opportunities to help those in need ... Not only do these opportunities provide a valuable public service, but they are also personally rewarding to all who participate.”

— *Alex Pilmer,*
Kirkland Los Angeles
Litigation Partner & recipient of one
of Kirkland’s Pro Bono Partner
of the Year Awards 2009]

Civil & Human
Rights



Kings County Settlement

On January 8, 2010, the U.S. District Court for the Eastern District of New York entered a stipulation and order of settlement mandating the New York City Health & Hospitals Corporation to undertake major systemic reforms to the inpatient and emergency psychiatric facilities at Kings County Hospital Center in Brooklyn.

Kirkland, along with the New York Civil Liberties Union and the Mental Hygiene Legal Service, filed suit against Kings County Hospital Center in May 2007 alleging patient abuse at the hospital's psychiatric facilities. Shortly after the lawsuit was filed, the U.S. Department of Justice launched an independent investigation of patient abuse.

In June 2008, the matter received national attention when WNBC aired a surveillance tape showing a female patient dying in the waiting room of the hospital's psychiatric emergency ward after being ignored by hospital staff. The story was picked up by major networks and the international news media. Following the

news coverage, Kirkland obtained a preliminary injunction requiring every patient to be checked every 15 minutes, that there be no more than 25 patients at any time in the psychiatric emergency ward, and that detailed records of the ward be turned over every week to Kirkland and its co-counsel.

Under the terms of the settlement and a contemporaneously ordered consent judgment between the Department of Justice and the city of New York, the hospital will be required to develop and implement a wide series of reforms. Kirkland and its co-counsel will partner with the Department of Justice in closely monitoring the hospital for the next five years. A six-member panel of outside experts will have full access to the hospital's buildings and facilities, and will report to the attorneys every three months. The monitoring period can be extended if counsel determines that the hospital has not achieved sustained substantial compliance with the terms of the settlement documents.

Fighting Against Wrongful Strip Search

Kirkland San Francisco attorneys represented the Lawyers' Committee for Civil Rights of the San Francisco Bay Area (LCCR) as an *amicus curiae* in a Ninth Circuit appeal involving Ms. Wong, an ordained minister from Hong Kong who was revoked re-admission to the United States after her immigration status lapsed because of a trip to Hong Kong, to take care of responsibilities arising from the death of her spiritual leader. While in immigration custody in an Oregon county jail, Ms. Wong was repeatedly strip-searched pursuant to blanket strip-search policies of the Clark County Jail.

The LCCR, through Kirkland, urged the court to affirm the rights of non-admitted persons to be free from governmental strip-searches absent individualized suspicion. While Ms. Wong's appeal was pending, the Ninth Circuit accepted *en banc* review of its prior precedent on strip-search policies applicable to incarcerated U.S. citizens and stayed Ms. Wong's appeal pending the outcome of that case. After that opinion issued on February 9, 2010, Kirkland assisted Ms. Wong's counsel in preparing her supplemental brief on the impact to her case.



Partnering with Asian Pacific American Legal Center

In January 2009, Kirkland and the Asian Pacific American Legal Center (APALC) obtained a settlement on behalf of a Chinese garment worker who worked at a sweatshop in El Monte, California. In the underlying litigation, APALC won a judgment of nearly \$800,000 against the sweatshop, but the defendants fled after transferring the factory and property to a third party. Kirkland filed a fraudulent transfer action in federal court and

pursued the defendants, including seizing two cars they found, by tracking one defendant's MySpace page.

APALC presented Kirkland with its Pro Bono Impact Award at the Center's 26th Anniversary Dinner in October 2009. The award recognized the Firm's long-standing support of the organization.

“This is a fantastic result. We could not have had better pro bono assistance. The Kirkland team was thorough, creative and determined to see that justice was done. For our client, this was proof that the legal system, while sometimes slow, works in the end. For APALC, this case is a model for what pro bono attorneys can do.”

—Julie Su, *Asian Pacific American Legal Center Litigation Director*

Advocating for Disabled Individuals

On behalf of certain disabled individuals and the Equal Rights Center (ERC), a Kirkland team initiated a lawsuit against the owners of Filene's Basement stores alleging violations of the Americans with Disability Act (ADA) and the D.C. Human Rights Act.

In the complaint, the ERC and the individual plaintiffs allege that the Filene's Basement stores discriminate against people with disabilities based on architectural and structural violations, as well as its operating policies, practices and procedures that impact the disabled community. The complaint seeks monetary compensation, injunctive relief and compliance with the ADA.



Settlement Achieved for Equal Rights Center

Kirkland represented the Equal Rights Center (ERC) in complex litigation in federal court against property developers Camden Property Trust and Camden Builders, Inc., whom they alleged failed to comply with the accessibility requirements of the Fair Housing Act and the Americans with Disabilities Act in more than 120 apartment complexes across the country.

After Kirkland fended off Camden's attempts to dismiss and delay the case, Camden's counsel approached the ERC with a settlement that was ultimately approved by the court on

September 14, 2009. Camden agreed to remediate 6,500 of its residential units, pay \$750,000 in damages and sponsor the ERC's multifamily housing resource program for \$50,000 a year for 10 years.

In 2010, the Firm received an Outstanding Achievement Award from the Washington Lawyers' Committee for Civil Rights and Urban Affairs for its work on this matter.

Win for U.S. Postal Service Employee

In November 2009, several Kirkland attorneys secured a favorable settlement in a dispute against the U.S. Postal Service involving claims of employment discrimination. The former postal worker had been litigating his discrimination claims for several years in the Northern District of California. After taking

substantial discovery, Kirkland secured monetary compensation and an offer for the client to return to work. The Postal Service also agreed to erase from his employment record any mention of involuntary termination.

Resolution of Discrimination Claim

Kirkland represented two African-American Washington, D.C. women in a discrimination case. The individuals had gone to shop at a local retail chain, but were told they would have to check their purses prior to entering the store, even though they saw several white women in the store shopping with even larger purses on their arms. When the women complained to store management, they were refused service entirely and told to leave the store.

The women contacted the Washington Lawyers' Committee for Civil Rights and Urban Affairs, who in turn contacted Kirkland.

Kirkland immediately agreed to represent the two women, undertook a full investigation, obtained witness declarations and sent a demand letter to the retailer. After several months of negotiations, Kirkland was able to successfully resolve its clients' claims on confidential terms.

The Firm received an Outstanding Achievement Award in the field of Public Accommodations from the Washington Lawyers' Committee for its work on the matter.



“Teaching trial advocacy to attorneys and police prosecutors in Kenya with Lawyers Without Borders was one of the best experiences I have had as a lawyer. It gave me the opportunity to explore and discuss Kenya’s laws with people who enforce those laws, and I felt like I was putting my advocacy skills to good use.”

— *Uma Amuluru,*
Kirkland Chicago
Litigation Associate]

Expanding Internationally



Kirkland Associate Joins “Lawyers Without Borders”

A Kirkland associate was asked by Judge Ann Claire Williams of the U.S. Court of Appeals for the Seventh Circuit to participate in “Support Through Trial Advocacy Training: Violence Against Women,” sponsored by Lawyers Without Borders. The program, which takes place in Kenya, was started by Judge Williams three years ago to address the problem of sexual- and gender-based violence against women.

The associate participated as a faculty member alongside four federal judges, several law professors and attorneys from other firms who helped address the complexities and challenges related

to Kenya’s Sexual Offences Act and educate Kenyan legal professionals through a trial advocacy program. The hypothetical case taught in the program using the National Institute of Trial Advocacy case method was based on an actual case that dealt with domestic violence and rape. The associate also discussed Kenya’s legal system with other Kenyan attorneys and judges, including Kenya’s chief justice.

Victory in Hague Convention Case at Ninth Circuit

In 2002, a custody dispute erupted between Ms. Brito and Mr. Salmeron over their now 11-year-old daughter. Nearly six years after Brito moved with her daughter from Mexico to the United States, Salmeron filed a petition in California federal court claiming that Brito had “wrongfully retained” their child in the United States. Armed with representation by a prominent law firm, the father sought an order to return the child to Mexico for custody proceedings.

Kirkland agreed to represent Ms. Brito on a pro bono basis and opposed Salmeron’s petition, arguing that although she was an undocumented immigrant, the daughter was “now settled” and,

as such, custody proceedings should take place here. The district court disagreed and ordered the daughter to return to Mexico for custody proceedings. Kirkland immediately appealed, and on March 18, 2009, a unanimous opinion in favor of Brito reversed the district court’s decision based on a case of first impression involving the Hague Convention on the Civil Aspects of International Child Abduction.



Partnership with MedicAlert Foundation

Kirkland's London office is actively expanding its role in pro bono work. The Firm's work for The MedicAlert Foundation and Equity for Africa (see below) are just two examples.

The MedicAlert Foundation, a UK-registered charity, is the only nonprofit organization that provides ID jewelry for individuals with hidden conditions, diseases or allergies. Through the group's 24/7 emergency helpline, emergency crews and doctors have immediate access to the medical information on these

individuals. This service has proven life-saving for many people in the UK and abroad.

Because of the nature of its activities, the foundation has complex data privacy, IP and liability issues, as well as a vast array of legal questions. The foundation has about 300,000 registered members in the UK, and the nature of its activities — and the liability they entail — means quick and correct legal advice is required.

“[A Kirkland partner's experience] in the fields of trademarks, IP, data protection and data security amongst many others has been of particular and extremely direct help and support to us due to the nature of our work. The financial saving to us has been significant and directly affects our ability to support those in need. Effectively, that cost saving helps us to save and protect more lives.”

— *Jeanette Allen, CEO, MedicAlert*

Equity for Africa

Kirkland's London office provides advice in relation to structuring and setting up a fund in conjunction with Equity for Africa (EFA). Founded in 2003, the organization aims to reduce poverty by financing sustainable employment-intensive business growth in northern Tanzania.

EFA provides flexible financing at affordable rates, helping to build the pool of sustainable employment and strengthening the

pipeline for further growth. EFA has been making “transition investments” of \$2,000 to \$75,000 in equipment to help very small businesses make the transition to the next stage. To continue fulfilling these objectives, EFA is setting up its first for-profit fund, in which Kirkland is involved.



[“[Kirkland & Ellis] had the ability to take the noun ‘change’ and turn it into an action verb.”

— *Robert Burke,*
Executive Director,
Ladder Up]

Community &
**Economic
Development**



Grameen America

Kirkland provides extensive counsel on general corporate matters, as well as fund structuring and other advice relating to capital-raising and deployment to Grameen America. Grameen America is a microfinance nonprofit organization that provides loans, savings programs, credit establishment and other financial services to entrepreneurs living below the poverty line in the United States.

Grameen America is an offshoot of the Grameen Bank, headed by Nobel Peace Prize winner Muhammad Yunus. Since 2007, the organization has made more than 3,000 micro-loans to financially challenged entrepreneurs. In addition to providing legal advice on all aspects of Grameen America's capital-raising efforts, Kirkland attorneys also serve on the Advisory Board of Grameen America, as well as on its Capital and Financing Subcommittee.

“The skills we use day to day in our commercial practice can be deployed in helping social businesses meet their capital needs, which creates opportunities for our lawyers to have an impact on their clients that can be profound. Our work in the microfinance area with Grameen America is an example of this collaboration.”

— *Stephen Tomlinson, Kirkland New York Real Estate Partner*

Launching the First-Ever Legal Clinic in Southwest D.C.

In 2008, Kirkland's Washington, D.C. office partnered with Friendship Baptist Church in Southwest Washington to form a nonprofit organization called Jeremiah's Circle of Friends (JCF). Through a generous donation from the Kirkland & Ellis Foundation, in January 2009, JCF opened the first and only pro bono legal clinic in the Southwest D.C. — the only quadrant of the city without neighborhood legal services.

Currently staffed and operated by Kirkland volunteer attorneys and legal assistants, the clinic provides free legal services to the community's most disadvantaged individuals. In the three

months that the clinic has been open, JCF has assisted more than 70 clients with a broad range of legal issues including civil rights, housing, contracts, public benefits, family law, employment matters and discrimination claims.

More than 20 percent of the attorneys in Kirkland's D.C. office have already volunteered at the clinic or taken on one of the clinic's cases. By the end of 2010, it is expected that this project will be a signature aspect of the D.C. office's pro bono program.



Nonprofit Fights Placement of Methadone Clinic

Kirkland represented The Heart of Camden, Inc. in an action brought in New Jersey Superior Court against the South Jersey Port Corporation (SJPC) and Parkside Recovery, Inc. seeking to prevent SJPC from leasing property in the Port of Camden (the Port) to Parkside for operation of a methadone clinic. Heart of Camden is a nonprofit corporation devoted to redeveloping, revitalizing and improving the quality of life in Camden, New Jersey. The proposed site for the methadone clinic was next to properties owned and developed by Heart of Camden.

Working with the Lawyers' Committee for Civil Rights Under Law, Kirkland attorneys requested a summary judgment to address whether SJPC's lease to Parkside was within the scope of SJPC's authority. In October 2009, Parkside's counsel confirmed that Parkside would not execute the lease with SJPC and had no plans to do so for the foreseeable future. The case has been dismissed without prejudice.

Partnering with Ladder Up

During the 2009 tax season, 50 Kirkland lawyers provided pro bono tax counseling and tax preparation services to nearly 500 low-income families in the Chicago area in conjunction with Ladder Up. The attorneys returned more than three-quarters of a million dollars to the families with whom they worked.

Ladder Up is a nonprofit organization that provides free tax preparation and counseling services to low-income families. The typical Ladder Up client is a single parent trying to support a family on less than \$15,000 a year.

“This year, [the Firm] helped 468 families and returned \$776,850 to the community. But, more importantly, they made life a little better for our clients and their families. More than just the numbers, you – Kirkland & Ellis – did what you do best. You advocated for those who do not always have a voice, and you spoke volumes with your actions.”

— Robert Burke, Executive Director, Ladder Up



[“Helping start-up and existing charities become tax-exempt and practice good governance is a professionally and personally rewarding way for corporate attorneys to do their part to help Kirkland realize its pro bono objectives.”

— *James Cosgrove,*
Kirkland Washington, D.C.
Corporate Associate]

Nonprofit
Organizations



Muslim Advocates

Kirkland partnered with San Francisco-based Muslim Advocates to help support its national Muslim Charities Accreditation Program, an initiative arranged in conjunction with the Better Business Bureau's Wise Giving Alliance. A 501(c)(3) established in 2005, Muslim Advocates urges improved transparency in the finances of nonprofit organizations and, to that end, hosts training seminars for nonprofits representing a variety of underserved communities. Their goal is to enhance the

knowledge and ability of nonprofits to meet the demands of governance and regulatory compliance and to build and strengthen partnerships between the government and disaffected communities. Kirkland helped prepare resource guides for nonprofits concerned with these issues, including best practices for nonprofit governance and tips for tax-exempt status maintenance.

“Providing legal services to organizations whose primary purpose is to empower under-represented segments of the American people raises the bar for everyone involved.”

— *Arshad Ahmed, Kirkland San Francisco Corporate Partner*

Sierra Leone Public Sector Development

A Kirkland team helped to obtain 501(c)(3) tax-exempt status for International Professional Partnerships for Sierra Leone, Incorporated (IPPSL). IPPSL's mission is to support the progress of public sector development in developing countries such as Sierra Leone by promoting effective, efficient governance that respects the rule of law and internationally recognized human rights, in accordance with the priorities of the countries' own

citizens. IPPSL recruits dedicated and internationally experienced professionals from diverse fields of expertise to serve one-year fellowships in Sierra Leonean ministries, departments and agencies. IPPSL's goal is to supplement government staff with skilled individuals who can help implement the best practices and policies envisioned by forward-thinking Sierra Leonean officials.

Thresholds Rehabilitation Industries

In 2009, a team of Kirkland attorneys represented Thresholds Rehabilitation Industries (TRI), an Illinois nonprofit, in its separation from its parent nonprofit, Thresholds. Thresholds is devoted to the care and rehabilitation of the mentally ill for more than 40 years and established TRI as an umbrella organization consisting of different businesses that provided jobs to mentally handicapped individuals.

One of TRI's businesses, Lincoln Laser, was a toner recycling company, supplying imaging products to government agencies and businesses (including Kirkland) since 2004. After Thresholds decided to dissolve Lincoln Laser, TRI came to Kirkland and

requested assistance developing an alternative financing solution so that the Lincoln Laser business could continue as an independent nonprofit, all during the worst credit market conditions in decades.

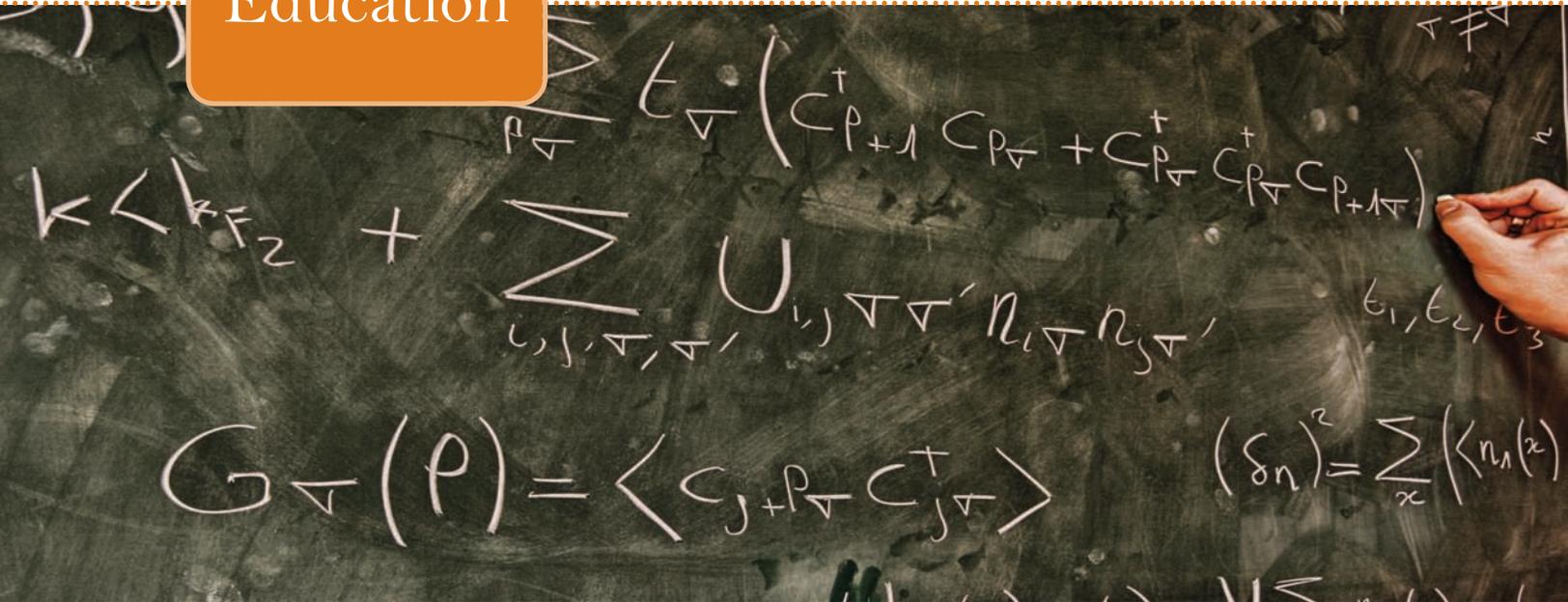
Alternate financing was eventually arranged for an independent TRI. In two months, the Kirkland team put together the needed documentation for the spin-off, financing, real estate lease and related closing materials, so that the separation could occur before Thresholds' deadline of July 1, 2009. As a result, the Lincoln Laser business has continued operations and employs more than 20 mentally handicapped persons.



“These [pro bono] cases are certainly among the highlights of my early career and have provided me tremendous opportunities to do high-level legal work, work directly with clients and gain negotiation experience.”

— *Ryan Wilkins,*
Kirkland Chicago
Litigation Associate]

Education



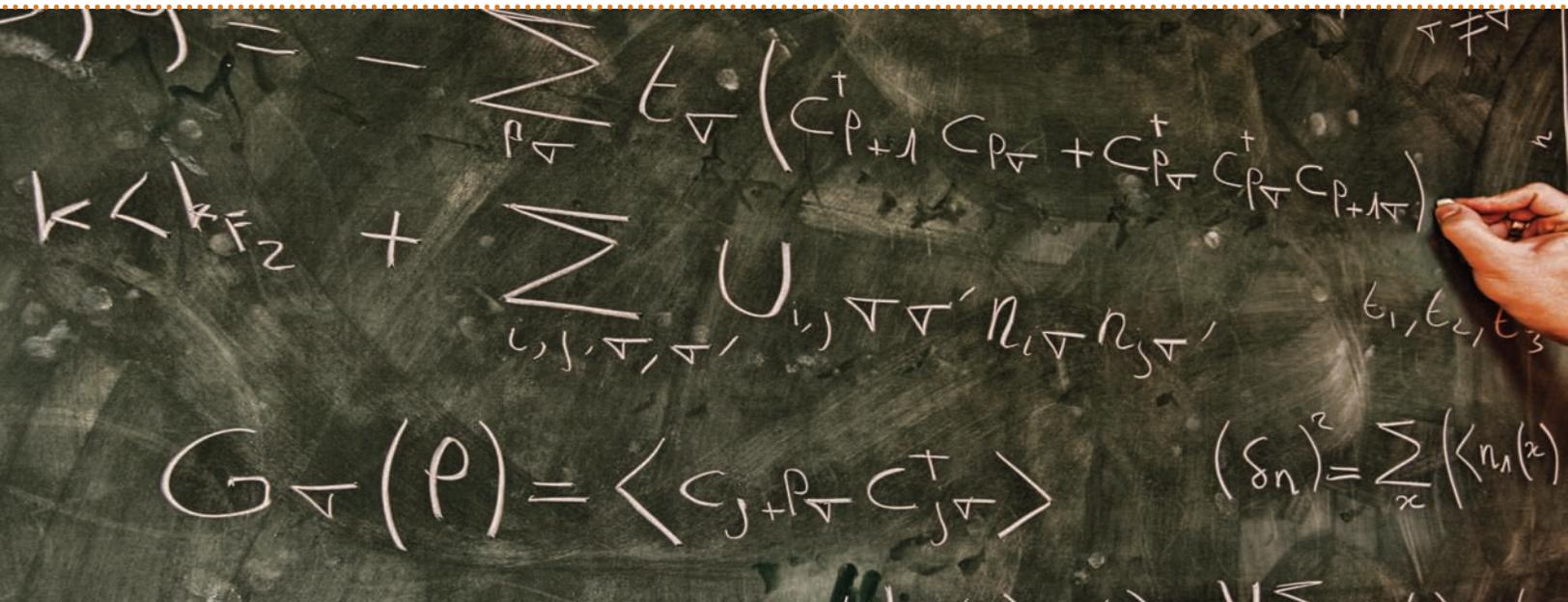
Partnering with Equip for Equality Special Education Clinic

Kirkland was the first law firm to develop a pro bono partnership with Equip for Equality's Special Education Clinic — an initiative that began in 2008 to assist children eligible for special education services and their families. Since then, Kirkland has handled more than a dozen cases, devoting more than 1,500 hours to the Special Education Clinic in 2009 alone. The results achieved for families, like the one featured below, have been significant.

In April 2009, Equip for Equality asked for Kirkland's assistance at a hearing concerning a 16-year-old's expulsion from high school. Despite repeated discipline for disobedience and fighting at school, as well as failing grades, the school district had never given the student a special education services evaluation. The student had been diagnosed with Attention-Deficit Hyperactivity Disorder (ADHD) by a private therapist. After an incident where the student allegedly pushed a teacher who was trying to break up a fight, the school district referred him for

expulsion. Kirkland attorneys argued at his hearing that the expulsion decision should be stayed pending determination of the student's disability. The school district agreed, and the student was referred to the school's psychiatrist for evaluation. It was determined that the student did indeed suffer from ADHD and his incidents of misconduct at school were related to his condition, making expulsion inappropriate and creating an obligation on the part of the school district under the Americans with Disabilities Act to provide special education services to the student. The client has stayed in touch with the Kirkland attorneys who handled the matter and has provided them with positive reports of the student's progress at school.

For Kirkland's work on behalf of Special Education Clinic clients and for its support of the clinic generally, Equip for Equality awarded Kirkland its first-ever Equality for Kids Community Service Award in November 2009.



Awards &
Events



Asian Pacific American Legal Center

The Asian Pacific American Legal Center presented Kirkland with its Pro Bono Impact Award at the Center's 26th Anniversary Dinner in October 2009. The award recognized the Firm's long-standing support of the organization.

Equip for Equality

In November 2009, Kirkland received the Equality for Kids Community Service Award for the Firm's financial support of the Equip for Equality "Equality for Kids Campaign" and the pro bono service Kirkland continually provides to clients of Equip for Equality's Special Education Clinic.

Lawyers' Committee for Better Housing

The Lawyers' Committee for Better Housing gave Kirkland the Friend of Lawyers' Committee for Better Housing Award in October 2009.

Lawyers' Committee for Civil Rights Under Law

In December 2009, the Lawyers' Committee for Civil Rights Under Law bestowed the Firm with a Special Recognition Award. Kirkland was one of 12 law firms to be recognized as "top pro bono contributors" to the Lawyers' Committee's 2008 Election Protection Program.

Public Interest Law Initiative

Kirkland received the Pro Bono Initiative award from the Public Interest Law Initiative at the organization's annual awards luncheon in December 2009. The award acknowledges a single entity for its "significant pro bono work in the community."

Washington Lawyers' Committee for Civil Rights and Urban Affairs

In 2009, the Firm received an Outstanding Achievement Award in the field of Public Accommodations from the Washington Lawyers' Committee for Civil Rights and Urban Affairs for its work on a discrimination case.

Kirkland & Ellis Pro Bono Competition

In 2008, the Kirkland Pro Bono Management Committee challenged the Firm's lawyers to improve their participation in pro bono matters. The objective was to increase the number of attorneys who perform at least 20 hours of pro bono legal work annually. An inter-office competition was established to identify and recognize the U.S. office with the highest annual participation rate overall, and the U.S. office with the highest participation rate specifically for transactional lawyers. Kirkland's Los Angeles office took top honors in both categories for 2009 — with nearly 69 percent of lawyers performing 20 or more hours of pro bono legal services and 67 percent of transactional lawyers meeting or exceeding this goal.

Kirkland Hosts Pro Bono & Community Service Fair

On October 29, 2009, Kirkland's Chicago office hosted the Chicago Bar Association Young Lawyers Section's 16th Annual Pro Bono & Community Service Fair. The event provided an opportunity for lawyers to meet with representatives from 50 of Chicago's legal aid, pro bono and community service organizations. The fair, which Kirkland sponsored with the Chicago Bar Foundation, the Public Interest Law Initiative and Exelon Corporation, was part of the Chicago Bar Association's Fifth Annual Pro Bono Week.

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